

State of California

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Legislative Change No.

02-09

Bill Number: AB 2979

Author: AR&T Committee

Chapter Number: 02-374

Laws Affecting Franchise Tax Board: Family Code Section 2628; Government Code Section 7150.5; Revenue and Taxation Code Sections 18001, 19006, 19052, 19180, 19354, 20503, 20505, 20563, 20642, and 20645.

Date Filed with the Secretary of the State: September 5, 2002

SUBJECT: Adjustment of Refundable Credit/Clarify Gov't Code/Frivolous Return Penalty/HRA Technical/Other State Tax Credit Source Rules/Divorce Settlement Tax Agreements/Innocent Spouse

Assembly Bill 2979 (Assembly Revenue and Taxation Committee), as enacted on September 5, 2002, made the following changes to California law:

This Franchise Tax Board (FTB) sponsored act:

1. Amends the Government Code to delete an obsolete reference.
2. Addresses an administrative problem in the processing of the Child and Dependent Care (CDC) Credit.
3. Conforms state law to federal law regarding certain penalties.
4. Makes nonsubstantive, technical changes to the Senior Citizens Homeowners and Renters Property Tax Assistance Laws (HRA).
5. Provides specific sourcing rules for the other state tax credit.
6. Increases the gross income and state income tax liabilities that would qualify for judicial relief of joint and several tax liabilities and informs the parties to a divorce proceeding of existing tax laws regarding divorce court orders.

Each provision will be discussed separately.

1. Clarify Government Code

Section 7150.5 of the Government Code is amended.

This act removes an obsolete Revenue and Taxation Code section cross-reference in the Government Code pertaining to state tax liens and replaces it with the correct cross-reference.

This provision is effective and operative January 1, 2003.

Bureau Director

Roger Lackey for B.P.

Date

September 30, 2002

2. Adjustment of Refundable Credit

Section 19052 of the Revenue and Taxation Code is amended.

This act clarifies that the adjustment of refundable credits is to be treated as a claim for refund.

Section 19354 of the Revenue and Taxation Code is amended.

This act provides that refundable tax credits in excess of tax liability are an overpayment.

This provision is effective January 1, 2003, and operative after this date.

3. Frivolous Return Penalty

Section 19180 of the Revenue and Taxation Code is amended.

This act:

- Requires taxpayers to pay the \$500 frivolous return penalty and follow the normal refund litigation process.
- Allows California to cross-claim for the balance of the abusive tax shelter penalty or for the penalty for aiding and abetting the understatement of tax, if a taxpayer pays 15% of the penalty and files suit.

This provision is effective January 1, 2003, and applies after this date.

4. HRA Technical

Sections 20503 and 20505 of the Revenue and Taxation Code are amended.

This act removes outdated language referencing claims filed for the 1977-1978 fiscal year.

Section 20514 of the Revenue and Taxation Code is amended.

This act removes references to prior year gross household income restrictions and inserts the 2001 calendar year gross household income figures.

Section 20563 of the Revenue and Taxation Code is amended.

This act changes the start of the filing season to June 30.

Sections 20642 and 20645 of the Revenue and Taxation Code are amended.

This act updates various statutory cross-references.

This provision is effective and operative January 1, 2003.

5. Other State Tax Credit Source Rules

Section 18001 of the Revenue and Taxation Code is amended.

This act codifies the nonresident sourcing rules for determining the appropriate other state tax credit.

This provision is effective January 1, 2003, and operative for taxable years beginning on or after January 1, 2003.

6. Divorce Settlement Tax Agreements

Section 19006 of the Revenue and Taxation Code is amended.

This act:

- Increases the gross income and tax liability thresholds to qualify for relief under a divorce court order to reflect inflation from 1977 to 2001, so that the amounts become \$150,000 for the gross income threshold and \$7,500 for the state income tax liability threshold.
- Specifies that the court order must address personal California income tax liabilities.

This provision is effective January 1, 2003, and operative for divorce court orders issued after that date.

Section 2628 of the Family Code is added.

This act informs the parties to a divorce proceeding that current income tax laws exist regarding divorce court orders and makes specific reference to the provision allowing taxpayers to seek relief from joint and several liability.

This provision is effective January 1, 2003.

The provisions of this act will not require any reports by the department to the Legislature.